IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE K.C. BHANU**

**WRIT PETITION NO : 23918 of 2004**

Between:

Kanwarjeet Singh, S/o. Surender Singh,
R/o. Anils Residency, Plot No. 33, Flat No. G-1,
Sri Venkateswara Officers Colony, Malkajgiri, R.R. District.

**..... PETITIONER**

AND

Housing Development Finance Corporation Ltd., Rep by its Chairman and Manging Director, HDFC House, Hyderguda Road, Basheerabagh, Hyderabad.

**.....RESPONDENT**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in returning the post dated cheques of the petitioner issued towards housing loan A/c 844883 and taking coercive steps to attach and auction the property of the petitioner without referring the dispute to arbitration and without issuing notice as arbitrary, illegal and consequently direct the respondent to continue the loan account on payment of the outstanding loan amount.

**Counsel for the Petitioner: MR.C.M.R.VELU (Not present)**

**Counsel for the Respondent: Mr.N.Chandradar Rao**

**The Court, at the admission stage, made the following :**

**ORAL ORDER**:

This writ petition is filed seeking a Mandamus to declare the action of the respondent in returning the post-dated cheques of the petitioner issued towards payment of housing loan and taking coercive steps to attach and auction the property of the petitioner without referring the dispute to arbitration and without issuing any notice as illegal and arbitrary.

None appeared for the petitioner. Heard the learned counsel for the respondent and perused the material on record.

The learned counsel for the respondent has contended that the respondent-Finance Corporation is not a State within the meaning of Article 12 of the Constitution of India. It is purely a loan transaction and as the petitioner committed default on payment, the respondent is taking steps to recover the loan. Hence, the writ petition is devoid of merit.

There is no allegation in the affidavit that the respondent-corporation is under the control of the Government so as to fall within the definition of Article 12 of the Constitution of India. It is purely an organization which deals with loan transactions wherein the petitioner

obtained a loan amounting to Rs.10 lakhs, but committed default. Therefore, the respondent is right in proceeding to recover the amount in accordance with law. No allegation whatsoever in the affidavit has been made that the respondent violated any of the provisions of the Act or the right of the petitioner has been affected, but it is stated that the respondent is making preparatory steps to attach and auction the petitioner's property. There cannot be any dispute that when a person committed default on payment of instalments, the Corporation is entitled to proceed for recovery of the same. The writ petition is devoid of merit and is liable to be dismissed.

Accordingly, the writ petition is dismissed. In the circumstances of the case, there shall be no order as to costs.

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(K.C. BHANU, J.)

9th March, 2005.

bcj

To

1. The Chairman and Managing Director, Housing Development Finance Corporation Ltd., HDFC House, Hyderguda Road, Basheerabagh, Hyderabad.

2. Two C.D. copies.